## III. FLOWCHARTS

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## FLOWCHARTS FOR 35 U.S.C. § 102(e) DATES: Apply to all applications and patents, whenever filed

Chart I: For U.S. patent or U.S. patent application publication under

35 U.S.C. § 122(b) (includes publications of § 371 applications) Is the reference a U.S. patent or U.S. application publication of an International Application (IA) after National Stage entry? (look for any of the following indicators: "35 U.S.C. § 371," "§ 371," "(22) PCT Filed: " and/or "(86) PCT No.") No Was the IA filed on or after Nov. 29, 2000? Is there an IA in the continuity chain for which a (National - look at the international filing date benefit is properly sought via §§ 120 or 365(c)? Stage) Yes No No IA Yes No involved The reference was filed under § 111(a) and only claims benefit to other U.S. applications For a patent: § 102(e) date is filed under § 111(a) or (b) or does not make Was the WIPO the § 371(c)(1), (2) and (4) date any benefit claims. publication of the Form Paragraph 7.12.01 The § 102(e) date of the reference is the IA in English and For a U.S. appl. publication: earliest U.S. filing date for which a benefit is did the IA no § 102(e) date properly sought via §§ 119(e) and/or 120 (do designate the Reference is prior art as of its not consider foreign priority claims under publication date under § 102(a) or (b) U.S.? Form Paragraph 7.08 or 7.09 §§ 119(a)-(d)). Form Paragraph 7.12 Yes No Benefit claim to Was the IA filed on or after Nov. 29, 2000? an IA (§§ 120 or look at the international filing date 365(c)) For a patent and a No U.S. application Yes publication: § 102(e) For a patent: § 102(c) date is the date is the Was the WIPO publication § 371(c)(1), (2) and (4) date; or § 111(a) international filing of the IA in English and filing date if the IA never entered national date or an earlier did the IA designate the stage. filing date for which U.S.? Form Paragraph 7,12,01 a benefit is properly For a U.S. application publication: § No Yes 102(e) date is the filing date of the U.S. sought\* Form Paragraph 7.12 application that claimed benefit to the IA Form Paragraph 7.12 For a patent and a U.S. application publication: For a patent and a U.S. § 102(e) date is the application publication: no For a patent and a U.S. international filing § 102(e) date application publication: date or an earlier date Reference is prior art as of its § 102(e) date is the filing date publication or grant date under for which a benefit is of the U.S. application that § 102(a) or (b) properly sought\* Form Paragraph 7.08 or 7.09 claimed benefit to the IA Form Paragraph 7.12 Form Paragraph 7.12

<sup>\*</sup> Consider benefit claims properly made under § 119(e) to U.S. provisional applications, § 120 to U.S. nonprovisional applications, and § 365(c) involving IAs. Do NOT consider foreign priority claims.